

**Camden Select Board  
Minutes of Meeting  
September 20, 2011**

**PRESENT:** Chairperson Martin Cates, Vice Chairperson Morgan Laidlaw, John French, Jr., James Heard, Donald White, and Town Attorney William Kelly. Also present were members of the press and public

**ABSENT:** Town Manager Roberta Smith

***Contents***

**1. Public input on non-agenda items.**

- a. Board member French inquired about the new Fireworks statute and whether we need to put an ordinance together to control them. Attorney Kelly stated there is a mechanism whereby if the town elects to allow for the sale of fireworks there are certain things that they have to abide by and there is some other flexibility in terms of the local ordinance. This would be a good discussion at some point to talk about the statute and what the Board may want or not want in the ordinance.

**2. Bid Award: Public Works Truck.** The FY12 budget includes \$35,000 for this purchase. Body and hydraulic work will still need to be completed.

*John French made a motion to award the bid to Dutch Chevrolet for a 2012 Chevrolet Silverado 3500HD for \$21,598. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.*

**3. Review of proposed Harbor Projects spending plan and consideration of Harbor Committee request to withdraw funds from the Harbor Projects Reserve Fund for the Marina Upgrade project.** The Board was provided a multi-year harbor projects plan showing the planned short term work and a cost estimate for the Marina upgrade project as prepared by Gartley & Dorsky. The total project cost will be between \$116,500 and \$121,340. Prior to construction the proposed marina improvements require approval from the Camden Planning Board, Code Enforcement Office, Harbor Committee and the Camden Select Board. The Planning Board Site Plan Review and the Select Board review may occur simultaneously once the CEO and Harbor Committee has approved the project. In addition to the local requirements the proposed marina improvements must receive permits from the MDEP, the Army Corps, and the MDOC. The proposed marina improvements will require an Individual NRPA (Tier 3) Permit, and ACE Category 1 Permit, and the Submerged Lands Lease will need to be amended. The cost estimated provided by Gartley & Dorsky include the costs associated with the necessary survey, design, planning and permitting. They have provided a conservative design and permitting numbers to ensure the Town would have adequate funds available if needed.

Members of the Harbor Committee were present regarding their proposal to explain and answer questions. Harbor Chairman McKeever & Vice Chairman Ellison both stated they both feel strongly that the improvements to the town dock system are something that needs to be done because over the years the dock system and harbor usage has greatly increased.

Board member French stated he would like to have a conversation about doing both projects (marina improvements and dredging of inner harbor) together. He questioned what the hurry was to get this approved tonight. Why can't this wait for two more weeks. Wouldn't it be beneficial to talk about both together.

Harbor member Ellison asked why the Board wants to add another impediment to the project. The Board is sending mixed messages to the Harbor Committee. It sounds like you are trying to micro-manage what Harbor Projects the Harbormaster works on with the Town Manager. Micromanaging does not make sense to him the Harbor Committee is only an advisory committee.

Will Gartley of Gartley & Dorksy stated it's a good chance the project is not going to be the same timeframe for dredging and the floats. He feels if you try to do the dredging at the same time it will complicate things. Permitting needs to get approved so project can get moving.

*Board member Morgan Laidlaw made a motion to move this Marina Upgrade project forward and approve the withdrawal of up to \$120,000 from the Harbor Projects Reserve account for the work. Board member Cates seconded this motion.*

Harbormaster Steve Pixley told the board the cost of the estimate for dredging is not in this proposal because Prock Marine told them they would not be able to fit it in their schedule this fiscal year and he is working with Gary Neville of Prock Marine to get an estimate for the dredging for next year's budget which is on schedule.

Board member French would like to amend the motion to approve the permitting process to move forward and come back in two weeks for linking the dredging of the inner harbor with this project. The amended motion was not seconded.

The amended motion failed because of a lack of a second.

*The vote on original motion on floor was 4-1-0 (French opposed)*

4. **Presentation of the proposal for a Downtown Plan and consideration of the request to designate \$20,000 from the Economic Development Reserve Fund for the work.** Development Director Brian Hodges told the Board that the Town does not have a formal Downtown Plan in place to guide us with ensuring its longevity. He has been working on this opportunity of establishing a Downtown plan and has constructed a RFQ and quote. The price for the plan is for no more than \$20,000. This amount is low for a standard Downtown plan being completed from scratch. However, a key element of the approach he is taking is to require that the successful contractor incorporate the plans which are already in place and completed through community engagement and professional services. He feels it is critical that a Downtown plan be created and formalized. He has met with both the CEDAC and Downtown Business Group. They are both in support and will participate with the town in review, selection, and implementation of the contract when finalized. He has also invited the Chamber to participate.

John Arnold from CEDAC and Oscar Verez, Chair of the Downtown Business Group spoke in support of this proposal.

*Donald White made a motion to approve the RFQ for the development of a Downtown Plan and to designate up to \$20,000 from the Economic Development Reserve Fund for the work. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.*

5. **Review and approval of the criteria for the Maine DOT Pedestrian Safety grant application.** Brian Hodges contacted Maine DOT relative to their letter regarding the Pedestrian Safety grant for the Washington St sidewalk extension. A representative of DOT was unable to meet with the Board. Brian Hodges was present and discussed the criteria with the Board. He told the Board the next step to move forward on the sidewalk design was if the Board wished to they would have to make a motion accept the grant conditions.

*John French made a motion to accept the elements contained in the July 12, 2011 letter from Dan Stewart of the Maine DOT and to agree to the local match as outlined for the design and project development of the Washington Street sidewalk extension. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.*

6. **Approval of the FEMA, Assistance to Firefighter's Grant application for the proposed new Fire Truck.** Chief Farley explained he completed this year's grant in the response category for the apparatus that has been approved by the Select Board and the Budget committee. The grant guidelines allow for submission of the grant for apparatus that has yet to be delivered. If the grant is successfully awarded grant funds can be used to retire the debt service. He also stated if the grant is successfully awarded, he anticipates the local match being available from the apparatus reserve fund. He is requesting approval from the Board for him to submit the grant on the Town's behalf.

*Donald White made a motion to approve the FEMA, Assistance to Firefighter's Grant application as prepared by Chief Farley. James Heard seconded this motion. The motion passed on a 5-0-0 vote.*

7. **Discussion of citizen noise complaints regarding the Smokestack Grill.** Town Attorney Kelly advised the Board to be careful about their comments. This is a fact finding hearing and they only need to ask a few questions. He told the Board that they could be called upon later at public hearing on the special amusement permit so it would be preferable for them to remain impartial at this time.

Mr. Richard Snyder one of the Knox Mill Condominiums residents spoke on behalf of those who have said the sound of music on Friday and Saturday nights, especially vibrations from low-frequency instruments, has kept them awake and impeded their ability to entertain guests.

Chief of Police Randy Gagne stated in 2011, there were 23 complaints filed claiming excessive noise from the Smokestack Grill. Of those, six were made before 11 p.m., and did not trigger a violation of town ordinances. In the 11 instances the responding officer from the Camden Police Department found the noise to be unreasonable. Mr. Gagne stated he hoped to see the situation resolved without further need for police intervention. Basically this is a multi-use zone where we have neighbors living next to businesses. He is more than happy to work with the group and he thinks the resolution is to make changes with the acoustics.

Attorney Kelly described similar situations he has encountered in other municipalities that were dealt with by hiring an engineer specializing in sound mitigation. He said solutions could be fairly simple, depending on the situation. He also said that such readings depend on a variety of factors, such as ambient noise and frequency of the source sound, and that police officers are not always qualified to use such information. He is not a fan of amending

the ordinance and not a fan of decibel meters and he feels this is completely complaint driven.

Developer and building owner Michael Nash, of Kelm Acquisitions and Waterfall Investment, said he has already installed some insulating materials in the condominium building, and was willing to work with the owner of the Smokestack Grill, Zach Cohen.

Attorney Chris MacLean representing the owner of Smokestack Grill stated he appreciates the positive tone and the way the Camden Police is handling the situation. It is very helpful. He does not think enforcement action is necessary the town's noise ordinance are too vague and subjective, and called for the use of decibel meters to determine infractions. As the Chief Gagne stated we are dealing with a multi-use zone here and these businesses have not just started they have been established and been here for many years.

Mr. William Shenkel stated he has visited Camden for over 30 years and the Town of Camden is one the best towns in the midcoast area. He has spent many weeks in the rental area and it is not just the noise from the bands it is also the noisy patrons leaving. The Select Board are the only ones that can solve the problem. If the Board only puts limits on the bands it will not limit the noise caused by noisy patrons.

*After further discussion, it was it was the consensus of the Board that the Town Attorney will meet with the parties involved in an attempt to find a resolution to the current problem. They are to report back to Board within 30 days if no resolution can be found to schedule a public hearing to decide whether or not to revoke the Special Amusement Permit for Smokestack Grill.*

8. **Consideration of recommendation to designate the Energy Committee inactive.** This is a recommendation made at the recent Select Board workshop on Town committees.

*John French made a motion to make the Energy Committee inactive until a need arises for further committee work. James Heard seconded this motion. The motion passed on a 5-0-0 vote.*

9. **Consideration of CEDAC's recommendation for revisions to the Committee's directive.** This is a recommendation made at the recent Select Board workshop on Town committees.

*Martin Cates made a motion to approve the revised CEDAC directive as recommended by the Committee. James Heard seconded this motion. The motion passed on a 5-0-0 vote.*

10. **Confirmation of an extension of the expiring memberships on the Conservation Commission, the Pathways Committee, the Parks & Recreation Committee and the Parking, Traffic and Transportation Committee until November 30, 2011.** These committees were asked to have joint discussions and report back to the Board by the end of November with recommendations how to better structure needed committees and how to enhance their membership. Therefore, it is recommended that terms of committee memberships that were meant to expire June 30, 2011 be again extended until November 30, 2011.

*Donald White made a motion to extend the memberships of the above committees to November 30, 2011. James Heard seconded this motion. The motion passed on a 5-0- vote.*

- 11. Consideration of reappointments for the Camden Housing, CEDAC, Historic Resources, and Megunticook Dams Committees.** The Board made reappointments and appointments to the following committees and boards:

Camden Housing Committee

*John French made a motion to reappoint George Wheelwright as a regular member with a term to expire June 2014. Donald White seconded this motion. The motion passed on 5-0-0 vote.*

CEDAC

*John French made a motion to appoint Kipp Wright as a regular member with a term to expire June 2014; appoint Peter Gross as a regular member with a term to expire June 2013; appoint Ellis Cohn as a regular member with a term to expire June 2013; appoint John Arnold as a regular member with a term to expire June 2012; appoint Rick Bates as a regular member with a term to expire June 2012; appoint Peter Brown and Mike Tyler as alternate members with terms to expire June 2012. Donald White seconded this motion. The motion passed on a 5-0-0 vote.*

Historic Resources Committee

*John French made a motion to reappoint Elinor Klivans as a regular member with a term to expire June 2014; and to reappoint Abigail Fitzgerald and Susan Snead as alternate members with terms to expire June 2012. Donald White seconded this motion. The motion passed on a 5-0-0 vote.*

Megunticook Dams

*John French made a motion to appoint Ed Libby and Richard Stetson as regular members with terms to expire June 2012. Donald White seconded this motion. The motion passed on a 5-0-0 vote.*

- 12. Assignment of Select Board Liaisons to Town Committees and Boards.** The Board reviewed and assigned Select Board member liaisons to the various Town boards and committees for 2011-2012.

- 13. Consideration of request from Chamber of Commerce to use the Village Green on Monday, October 3, 2011 from 8:00 am to 4:30 pm for temporary placement of a 10 ft x 10 ft tent to help direct passengers arriving by bus from the Jewel of the Seas cruise ship.** Manager Smith stated this request is to place a tent on the Village Green for shore excursions that come into Camden. This tent helps expedite people through town on a workday to avoid traffic congestion without too much impact.

*Morgan Laidlaw made a motion to approve the request for the use of the Village Green. John French seconded this motion. The motion passed on a 5-0-0 vote.*

Chairperson Cates read the rules and regulations for conducting public hearings in preparation of the public hearings to be held this evening.

- 14. Public Hearings on the following renewal licenses:** Manager Smith reported there was one incident on record with the Police department involving Peter Otts and the issue was resolved.

- a. **Application of Stuart Smith, d/b/a Grand Harbor Inn at 14 Bay View Landing for a Class III Vinous Liquor License**
- b. **Application of Peter Masin-Peters, d/b/a Peter Otts at 16 Bay View Street for a Class I Restaurant Liquor License serving malt, spirituous, and vinous beverages.**
- c. **Application of Peter Masin-Peters, d/b/a Peter Otts at 16 Bay View Street for Special Amusement Permit.**

Chairperson Cates asked to hear from any proponents. There were none.

Chairperson Cates asked to hear from any opponents. There were none.

Chairperson Cates closed the public portion of the hearing, no Board discussion followed.

*Donald White made a motion to approve the licenses in a. through c. John French seconded this motion. The motion passed on a 5-0-0 vote.*

15. **Consideration of application of Peter Otts at 16 Bay View Street for a victualer license.**  
Manager Smith reported the codes officer and fire department have signed off on the application.

*John French made a motion to approve the application of Peter Ott's at 16 Bay View Street for a victualer license. Donald White seconded this motion. The motion passed on a 5-0-0 vote.*

16. **Approval of the Warrant for the Special Town Meeting on November 8, 2011.** *John French made a motion to approve the Warrant as drafted. Donald White seconded this motion. The motion passed on a 5-0-0 vote.*

17. **Confirmation of the appointment of Deborah Dodge as Election Warden for the November 8, 2011 State Referendum Election and Special Town Meeting.** *John French made a motion to confirm the appointment of Deborah Dodge as Election Warden for November 8, 2011. James Heard seconded this motion. The motion passed on a 5-0-0 vote.*

18. **Consideration of setting the Registrar's office hours for the upcoming November 8, 2011 State General/Referendum Election and Special Town Meeting as the Clerk's regular business hours of Monday through Friday from 8 am – 3:30 pm and the 1<sup>st</sup> & 3<sup>rd</sup> Tuesdays from 8:00 am to 4:30 pm.** *John French made a motion to approve the Registrar's office hours for the November 8th election as requested. Martin Cates seconded this motion. The motion passed on a 5-0-0 vote.*

19. **Decision to rent or lease any of the commercial passenger vessel float space or berthing slips and fisherman's floats for the upcoming year.** Manager Smith stated this is an annual determination that needs to be made prior to advertisement for applications for the 2012 season.

*John French made a motion to lease commercial passenger space and fisherman's floats for 2012. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.*

## **20. Committee Reports**

- a. Planning Board: Board member White reported the Route 105 Boat Ramp project has finally passed all its hurdles and should begin on Monday, September 26 and they anticipate it will be approximately two weeks until completion. Also at the last Planning Board meeting and the other Select Board members were also present they thanked Planning Board member Dick Householder for his hard work and dedication on the proposed Historic Ordinance which will not be going forward at this time. The Select Board at that time also thanked the Planning Board for their hard work that they have put in on all projects over the years.
- b. Camden Public Library: Board member White stated the Library has been working with the Police Chief regarding increasing spot checks on the amphitheater grounds regarding teens at the amphitheater. Chief Gagne stated they are making more spot checks and the police department has increased patrols at the library and no major incidents have been reported however the police continue to log and investigate complaints. Both the Police Department and Library staff will remain vigilant with the teen presence on library grounds.
- c. Opera House Committee: Board member White reported Susan Dorr was elected Chair for the ensuing year. The Committee discussed their priorities for the upcoming year. The committee is looking for financial support to continue the renovations of the third floor and they are continuing discussions on their strategic plan.

**21. There was no Manager's Report.**

*John French made a motion to adjourn at 9:30 pm. Donald White seconded this motion. The motion passed on a 5-0-0 vote.*

Respectfully submitted,

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Janice L. Esancy  
Recording Secretary